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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/731,316

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Carlos Schuler

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1043

21968 7590 09/30/2009

NEKTAR THERAPEUTICS  
201 INDUSTRIAL ROAD  
SAN CARLOS, CA 94070

EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

09/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* CARLOS SCHULER, STEVE PABOOJIAN, ANDREW  
CLARK, ANDREA ROURKE, JOANNE CURLEY, DON S. MINAMI,  
and DERRICK J. TUTTLE

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Application No. 09/731,316  
Technology Center 3700

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Mailed: September 30, 2009

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Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.  
Perry, Supervisory Paralegal Specialist, Review Team.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

### FINAL REJECTION

A review of the file reveals that in the Final Rejection mailed October 6, 2005, specifically the cover sheet, Office Action Summary, , indicates claims 1-18, 21, 23-29, 35-39, 43-49, 61, and 62 are rejected. However, Claims 17, 35, and 36 are not included in the rejection of the claims other than the cover page (PTOL-326). The Final Rejection is silent to the actual disposition of Claims 17, 35, and 36.

### EXAMINER'S ANSWER

The Examiner's Answer, mailed April 28, 2009, is also silent to the disposition of Claims 17, 35, and 36. The Examiner must clarify the status of Claims 17, 35, and 36.

The Examiner should "vacate" the Examiner's Answer dated April 28, 2009, and mail a Supplemental Examiner's Answer with the appropriate Technology Center Director or designee signature<sup>1</sup>.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) "vacate" the Examiner's Answer mailed April 28, 2009;
- 2) issue a Supplemental Examiner's Answer setting forth the correct status of Claims 17, 35, and 36;
- 3) if appropriate, updating or correcting the Grounds of Rejection and Arguments, and any other appendix of the Answer as may be required;
- 4) include the approval of the TC Director; and

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<sup>1</sup> In TC 3700, only the Director's signature is acceptable.

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5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

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